



January 19, 2010

Elizabeth Erickson

*Via E-mail*

Groundwater Permitting Section  
Los Angeles Regional Water Quality Control Board  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013

**RE: Comments on Tentative Order for Issuance of Waste Discharge Requirements Prohibiting Discharge, Malibu La Paz, 3700 La Paz Lane, Malibu California (File No. 08-101)**

Dear Ms. Erickson,

Santa Monica Baykeeper supports the Tentative Order for Issuance of Waste Discharge Requirements Prohibiting Discharge, Malibu La Paz ("Tentative La Paz WDR"). As explained in numerous letters from the Los Angeles Regional Water Quality Control Board ("Regional Board") staff, the La Paz project wastewater treatment system cannot ensure that the treated wastewater discharged from the project will not result in violations of water quality standards and further impair the beneficial uses of Malibu Creek, Malibu Lagoon and Surfrider Beach which are all waters on California's 303(d) List of Impaired Waters. Most importantly, allowing wastewater discharges from the La Paz project will directly violate the recently-adopted amendment to the Los Angeles Basin Plan which specifically prohibits onsite wastewater disposal systems in the Malibu Civic Center Area. For these reasons, the Regional Board's tentative WDR prohibiting discharges from the La Paz project is both justified and necessary.

**I. Wastewater Discharges from the La Paz Project Will Result in Violations of Water Quality Standards and TMDLs and Must Be Prohibited.**

The La Paz project proposed wastewater discharge will impact several impaired waterbodies with imposed TMDLs. Because the proposed La Paz project wastewater treatment system cannot ensure that violations of water quality standards and TMDLs will not result from the wastewater discharges, the Regional Board must prohibit the wastewater discharges from La Paz. *See* Cal. Wat. Code § 13263 (a) (when prescribing WDRs, the Regional Board must take into account "the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed;" the WDRs "shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality

objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of section 13241”).

The Regional Board and the EPA have established TMDLs for the following impaired water bodies in the Malibu Civic Center area: a Nutrient TMDL for Malibu Creek and Malibu Lagoon, a Santa Monica Bay Beaches TMDL for Malibu Beaches and a Malibu Creek and Lagoon Bacteria TMDL. Regional Board Resolution No. 02-004 (Santa Monica Bay Beaches Bacteria TMDL); Regional Board Resolution No. 2004-019R (Malibu Creek and Lagoon Bacteria TMDL); U.S. EPA TMDL for Nutrients Malibu Creek Watershed. The beneficial uses of these surface waters include: Water Contact Recreation; Non-Water Contact Recreation; Marine Habitat; Wildlife Habitat; Wetland Habitat; Spawning, Reproduction, and/or Early Development; Rare, Threatened, or Endangered Species Habitat. Basin Plan at 2-10, 2-19. The groundwater in the Civic Center area has the following beneficial uses: Municipal and Domestic Supply (Potential), Industrial Process and Service Supply, and Agricultural Supply. Basin Plan at 2-17. The water quality objectives for groundwater can be found in Title 22 of the California Code of Regulations and the Basin Plan.

As documented in the supporting Technical Reports for the Basin Plan Prohibition on Onsite Wastewater Disposal Systems in the Malibu Civic Center area adopted on November 5, 2009, the waters of the Malibu Valley Groundwater Basin are consistently polluted by wastewater discharges to the Civic Center area, such as the La Paz project proposed discharge. Technical Staff Report, *Technical Memorandum #2: Pathogens and Nitrogen in Wastewater Impair Underlying Groundwater as a Potential Source of Drinking Water* (“Technical Memorandum #2”), at T2-4. Moreover, because groundwater is in hydraulic connection with the surface waters of Malibu Creek, Malibu Lagoon, Surfrider Beach and Malibu Beach, wastewater pollution carried by groundwater impairs these waterbodies. Technical Staff Report, *Technical Memorandum #4: Nitrogen Loads from Wastewater Flowing to Malibu Lagoon are a Significant Source of Impairment to Aquatic Life* (“Technical Memorandum #4”), at T4-9 – T4-15. Technical Staff Report, *Technical Memorandum #3: Pathogens in Wastewater that are in Hydraulic Connection with Beaches Represent a Source of Impairment for Water Contact Recreation* (“Technical Memorandum #3”), at T3-8—T3-16. Polluted wastewater discharges such as the discharge proposed by the La Paz project thus contribute to violations of groundwater and surface water standards in the Malibu Valley Groundwater Basin and Malibu Creek, Malibu Lagoon, Surfrider and Malibu Beaches. *Technical Memorandum #2*, at T2-4; *Technical Memorandum #4*, T4-9 – T4-15; *Technical Memorandum #3*, at T3-2 – T3-26.

In light of these well-known and documented water quality problems in the area of the proposed La Paz project, the Regional Board was justified in demanding from La Paz specific technical information to demonstrate that the proposed no-net discharge wastewater treatment system will in fact result in no impact on the Malibu Valley Groundwater Basin, Malibu Creek, Malibu Lagoon and Surfrider Beach. *See* Technical Review of Malibu La Paz Development: Request for Waste Discharge/Water Reclamation Requirements (File No. 08-0101) (January 15, 2008); Notification of Incomplete Application for Waste Discharge Requirements, Malibu La Paz, 3700 La Paz Lane, Malibu, California ( File No. 08-0101) (February 15, 2008). The Regional Board staff specifically asked La Paz to provide additional evidence demonstrating the

successful operation of landscape irrigation to confirm La Paz' evapotranspiration model and additional analysis of wastewater treatment system failure and associated groundwater discharge. *See id.* Despite numerous meetings and correspondence with Regional Board staff, La Paz failed to provide this documentation to the Regional Board and instead insisted that the information provided in its incomplete ROWD is sufficient basis for a WDR.

The Regional Board has an obligation to protect the quality of California's water resources consistent with established Basin Plan water quality objectives, beneficial uses and TMDLs. *See* Cal. Wat. Code §§ 13000, 13001, 13263. Because La Paz has refused to provide to the Regional Board necessary information ensuring the protection of water resources, to eliminate the continued degradation and maximally protect the waters of the Malibu Valley Groundwater Basin, Malibu Creek, Malibu Lagoon and Surfirider Beach, the Regional Board must prohibit any wastewater discharges from the La Paz project.

## **II. Wastewater Discharges from the La Paz Project Will Directly Violate the Basin Plan Prohibition on Onsite Wastewater Disposal in the Malibu Civic Center Area**

As briefly discussed above, on November 5, 2009 the Regional Board adopted a Basin Plan amendment prohibiting the onsite wastewater disposal in the Malibu Civic Center area. Regional Board Resolution No. R4-2009-007. The proposed La Paz project is located within the boundary of the prohibition area and proposes the discharge of waste specifically prohibited by the Basin Plan amendment. *Id.* Thus, to comply with the directives of section 13263 of Water Code to ensure that WDRs "shall implement any relevant water quality control plans that have been adopted" the Regional Board is now precluded from issuing a WDR *allowing* any discharge of wastewater in the Civic Center area. Consequently, the Tentative La Paz WDR prohibiting discharge is the only legally available option for the Regional Board.

## **III. Conclusion**

Santa Monica Baykeeper supports the Tentative La Paz WDR which is both justified and required by the law. We urge the Regional Board to adopt the Tentative La Paz WDR at its February 4, 2010 hearing.

If you have any questions, please do not hesitate to contact me at (310) (305)-9645.

Sincerely,

A handwritten signature in blue ink that reads "Tatiana K. Gaur". The signature is written in a cursive, flowing style.

Tatiana K. Gaur  
Staff Attorney

Santa Monica Baykeeper